

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ALTOS UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2012100668

LOS ALTOS UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2012021185

ORDER GRANTING MOTION TO
CONSOLIDATE

On February 27, 2012, the Los Altos Unified School District (District) filed a Request for Due Process Hearing (Complaint) in the Office of Administrative Hearings (OAH) Case Number 2012021185 (District's Case) against Parents, on behalf of the Student (Student).

Pursuant to OAH's order granting District leave to amend its complaint, District amended its complaint on September 24, 2012. Therefore, with respect to the applicable timelines for a decision under the Individual with Disabilities Educational Act, the date of filing of District's Case was reset to September 24, 2012.

On October 16, 2012, Student filed a Request for Due Process Hearing in OAH Case Number 2012100668 (Student's Case) against District. Also on October 16, 2012, in a separate Motion to Consolidate, Student requested that OAH consolidate his case with the District's case.

On October 18, 2012, District filed its opposition to Student's request to consolidate. As discussed below, the request to consolidate is granted.

APPLICABLE LAW

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

DISCUSSION

District's case, as amended, raises two issues: 1) whether its June 1, 2011 individualized educational program (IEP) offer, as amended, constitutes a free appropriate public education (FAPE) in the least restrictive environment (LRE); and 2) whether District's 2012 triennial IEP offer constitutes a FAPE in the LRE?

Student's complaint also alleges two similar issues including whether District denied Student a FAPE from October 2010 to the present time because the operative IEP's during the relevant period failed to meet Student's unique educational needs in the areas of services and placement. Further, Student raises the issue of whether District's 2012 triennial IEP constitutes an offer of FAPE to Student.

District opposes the consolidation on a number of grounds, including: 1) that granting the motion to consolidate would delay the due process hearing, and "thereby denying District its due process rights"; 2) that Student's case is more expansive than District's case, as the District's case does not involve the 2012-2011 school year; and 3) that some of its witnesses may be unavailable of the due process hearing is postponed to December 2012 or later, among others.

While District has raised some important issues in these matters in its opposition to Student's request to consolidate, among others, the relevant factors in evaluating the question of whether two or more cases should be consolidated are: whether the cases sought to be consolidated involve a common question of law or fact; whether the cases have the same parties; and ultimately whether consolidating matters would further the interests of judicial economy by saving time or preventing inconsistent rulings.¹

¹ The OAH case cited by District in its opposition to Student's Motion to Consolidate is not persuasive. First, factual background of the cited case and the case herein are not the same, and second, the procedural timelines are dissimilar. For example, District filed an amended complaint on September 24, 2012 in OAH Case Number 2012021185, thus resetting all applicable timelines. Further, District may raise the issue regarding the availability of its

Here, both the District's and Student's cases are similar in that each raises the issue of whether Student was provided a FAPE. The two cases involve the same parties, and cover same or similar issues and time periods. The two cases present common questions of law and facts, as they relate to the information District considered, or should have considered in developing Student's IEP's. Thus, the record supports a conclusion that consolidation furthers the interests of judicial economy because the issues raised in both cases involve Student's unique educational needs, and whether District IEP's provide Student with a FAPE.

Clearly, evaluating and addressing these questions would involve the same evidence and witnesses, and the analysis and resolution of the same questions of law. Therefore, consolidating the cases will promote judicial economy, save time and resources and prevent inconsistent rulings. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2012021185 (District's Case) are vacated.
3. The consolidated matters shall proceed based on the timeline established in OAH Case Number 2012100668 (Student's Case).
4. The 45-day time line to issue a written decision shall be based upon the OAH Case Number 2012100668 (Student's Case).

Dated: October 22, 2012

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings

witnesses, for consideration by the hearing Administrative Law Judge at the prehearing conference or through an appropriate motion.